IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1891 OF 2007.

Vikram Rangrao Patil and others. ... Petitioners.

Versus.

The State of Maharashtra & anr. ... Respondents.

Shri V.D.Patil for the Petitioners.

Ms.Mhaispurkar, A.G.P. for the Respondents Nos.1 and 2.

CORAM : ABHAY S.OKA, J.

DATED : 26th April, 2007.

P.C.:

1. Heard the learned Counsel appearing for the Petitioners who are the original Plaintiffs. An application for temporary injunction was made by the Petitioners in a suit for declaration of ownership in respect of the property described in the plaint. The trial Court rejected the Application for temporary injunction though a finding was recorded that the Petitioners are in possession. In appeal preferred by the Petitioners, the said order has been confirmed by the District Court.

2. The learned Counsel for the Petitioners submitted that there is a categorical finding recorded by the trial Court that the Petitioners were in possession on the date of institution of the suit. He pointed out that the learned trial Judge while rejecting the Application for temporary injunction allowed the Petitioners to harvest the sugar-cane crop. He

submitted that the petitioners are not dispossessed and therefore, a limited injunction should have been granted.

3. I have considered the submissions. The suit land has been acquired under the provisions of the Land Acquisition Act, 1894 and in fact an Award under section 11 of the said Act of 1894 has been made in the year 1992. The revenue record shows that the possession of the land was taken over in the acquisition proceedings. In the suit the Petitioners claim declaration of ownership and injunction. After the declaration of the Award, the Petitioners' suit was not maintainable. Hence I find no error in the view taken by the Courts below. The writ petition is rejected.

4. All contentions of the parties on merits in the pending suit are expressly kept open.

Judge.